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1                   UNITED STATES PATENT AND TRADEMARK OFFICE  
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4                   BEFORE THE BOARD OF PATENT APPEALS  
5                   AND INTERFERENCES  
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8                   *Ex parte* MATHIAS ENTENMANN  
9

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11                   Appeal 2009-012037  
12                   Application 09/678,295  
13                   Technology Center 3600  
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16                   Decided: June 18, 2010  
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19                   Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and  
20                   ANTON W. FETTING, *Administrative Patent Judges.*  
21                   FETTING, *Administrative Patent Judge.*

22                   DECISION ON APPEAL  
23

1 STATEMENT OF THE CASE

2 Mathias Entenmann (Appellant) seeks review under 35 U.S.C. § 134  
3 (2002) of a final rejection of claims 1-4, 7, 9-10, 12-19, and 22-32, the only  
4 claims pending in the application on appeal.

5 We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b)  
6 (2002).

7 SUMMARY OF DECISION<sup>1</sup>

8 We AFFIRM.

9 THE INVENTION

10 The Appellant invented a method of effecting cashless payments and a  
11 system for implementing the method (Specification 1:4-5).

12 An understanding of the invention can be derived from a reading of  
13 exemplary claim 1, which is reproduced below [bracketed matter and some  
14 paragraphing added].

15 1. A method of effecting a cashless payment transaction by  
16 means of a merchant station characterized by a merchant station  
17 identification code, a mobile cell phone with a SIM card  
18 characterized by an identification code identifying the SIM  
19 card, and a comparing device, which comprises a transaction  
20 data memory device, a merchant checking device for checking  
21 the identification codes of the merchant stations authorized for

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<sup>1</sup> Our decision will make reference to the Appellant's Appeal Brief ("App. Br.", filed February 12, 2009) and the Examiner's Answer ("Ans.", mailed March 19, 2009), and Final Rejection ("Final Rej.", mailed February 4, 2008).

1       this method, and a subscriber checking device for checking the  
2       identification codes of the SIM cards authorized for this method  
3       and which is connected to account keeping device, comprising  
4       the steps:

5       [1]      reading an amount of money to be paid into the merchant  
6       station,

7       [2]      transmitting, by the merchant station, the identification  
8       code of the merchant station and at least the amount of money  
9       to the comparing device through a data link,

10      [3]      checking the authority of the merchant station for the  
11      method, using the merchant checking device,

12      [4]      terminating the method in the absence of the authority,  
13      otherwise writing the data as an open transaction into the  
14      transaction memory device of the comparing device,

15      [5]      after the step of reading the amount of money into the  
16      merchant station, making a connection from the mobile cell  
17      phone to the comparing device,

18      [6]      transmitting the identification code of the merchant  
19      station and the identification code associated with the SIM card  
20      from the mobile cell phone to the comparing device,

21      [7]      checking the authority of the SIM card for the method,  
22      using the subscriber checking device, in the absence of the  
23      authority terminating the method, clearing the open transaction  
24      from the transaction memory and the transmitting  
25      corresponding data to the merchant station, otherwise  
26      comparing the merchant station identification code transmitted  
27      from the mobile cell phone with those of the open transactions  
28      stored in the transaction memory device and on failure to find  
29      such a transaction terminating the process and, on finding the  
30      transaction,

31      [8]      transmitting the transaction data to the mobile cell phone,

32      [9]      outputting the data through the mobile cell phone,

33      [10]     requesting confirmation information through the mobile  
34      cell phone,

- 1        [11] transmitting the confirmation data to the comparing  
2        device,  
3        [12] terminating the transaction and clearing the transaction  
4        from the transaction memory if the confirmation data  
5        corresponds to a refusal, and transmitting the transaction data  
6        from the transaction memory and the identification code of the  
7        mobile cell phone to an account keeping device and clearing the  
8        transaction from the transaction memory in the alternative case;  
9        and  
10      [13] transmitting additional supplementary transaction data to  
11      the comparing device or mobile cell phone from the merchant  
12      station.

13

14

## THE REJECTIONS

15      The Examiner relies upon the following prior art:

Partridge, III	US 5,608,778	Mar. 4, 1997
Jonstromer	US 6,142,369	Nov. 7, 2000

16

17      Claims 1-4, 7, 9-10, 12-19, and 22-32 stand rejected under 35 U.S.C.  
18      § 103(a) as unpatentable over Partridge and Jonstromer.

19

20

## ISSUES

21      The issue in rejecting claims 1-4, 7, 9-10, 12-19, and 22-32 under 35  
22      U.S.C. § 103(a) as unpatentable over Partridge and Jonstromer turns on  
23      whether Partridge and Jonstromer describe the steps or elements recited in  
24      claim 1.

25

1                   FACTS PERTINENT TO THE ISSUES

2         The following enumerated Findings of Fact (FF) are believed to be  
3         supported by a preponderance of the evidence.

4         *Facts Related to the Prior Art*

5         *Partridge*

- 6         01. Partridge is directed to wireless telephones and processes for  
7                 use of such a telephone to secure action on behalf of the  
8                 telephone's holder (Partridge 1:8-10).
- 9         02. Partridge describes a basic transaction in the system is for a  
10                cellular telephone to charge a chosen amount to its account with a  
11                credit center and to inform a merchant that they will get the  
12                benefit of this charging against the telephone holder's account  
13                (Partridge 3:18-22). First, a merchant provides a customer with a  
14                unique code that identifies the merchant to the credit center  
15                (Partridge 5:3-5). The customer presses, the merchant's code and  
16                the amount to be charged to the customer's account, into the  
17                phone and thereby credited to the merchant (Partridge 5:6-9). The  
18                cellular telephone transmits this data to a base station and the  
19                credit center (Partridge 5:10-23). The credit center determines  
20                whether the customer is in a position to receive credit (Partridge  
21                5:23-28). If the customer is approved for credit, the credit center  
22                transmits an approval code to the merchant and customer  
23                (Partridge 5:29-32). Receipt of the approval confirmation  
24                completes the transaction (Partridge 5:33-34). The cellular phone  
25                transmits specific values to the credit center to request

1 confirmation of the transaction (Partridge 4:8-10). Alternatively,  
2 the merchant can contact the credit center and provide its  
3 identification code in order to avoid any miscommunication by the  
4 customer (Partridge 5:48-52). The customer and merchant can  
5 also use a transaction password (TP) and each submit the TP in  
6 contacting the credit center (Partridge 5:55-62).

7 03. Several values are transmitted between the merchant, the  
8 customer, the base station, and the credit center (Partridge Figs. 2-  
9 6). The transmitted information includes an equipment number  
10 (ESN), the cellular telephone's assigned number (MIN1), and  
11 possibly a transaction password (TP) (Partridge 3:40-48 and 5:55-  
12 57). The merchant code, the amount charged, and a prefix  
13 comprise the string MIN2 (Partridge 5:8-9). In one embodiment,  
14 the merchant only transmits the merchant ID code to the customer  
15 and the customer transmits all of the values to the base station and  
16 credit center (Partridge Fig. 2). In another embodiment, the  
17 customer transmits all of the information to the merchant and the  
18 merchant transmits all of the information to the base station and  
19 credit center (Partridge Fig. 4). Partridge further describes  
20 multiple variations of which devices are transmitting what  
21 information to other devices, including having both the customer  
22 and the merchant contact the base station and credit center with  
23 the same information so that the merchant and customer are  
24 matched to the same transaction (Partridge Figs. 3 and 5-6).

1

2 *Jonstromer*

3 04. Jonstromer is directed to an electronic wallet and a method of  
4 using an electronic wallet (Jonstromer 1:8-10).

5        05. Jonstromer describes an electronic transaction system that uses  
6              a smart card or subscriber information module (SIM) configured  
7              to store credits and a communication module configured to  
8              transmit credits from the smart card to a party (Jonstromer 1:28-  
9              30, 2:27-29, and Abstract).

10

## ANALYSIS

11       Claims 1-4, 7, 9-10, 12-19, and 22-32 rejected under 35 U.S.C. § 103(a)  
12                          as unpatentable over Partridge and Jonstromer

13 The Appellant first contends that (1) Partridge fails to describe the step  
14 of transmitting an amount of money from the merchant station, as required  
15 by limitation [2] of claim 1 (App. Br. 9). We disagree with the Appellant.  
16 Partridge describes a system where credit is extended to a cellular telephone  
17 customer and the customer can charge items to the cellular telephone  
18 account (FF 01-02). Partridge describes the transaction as beginning with  
19 the merchant transmitting the merchant ID to the customer (FF 02). In the  
20 embodiment argued by the Appellant, the customer then transmits the  
21 equipment number (ESN), the cellular telephone's number (MIN1), the  
22 merchant code and the amount to charge (MIN2) to the base station and the  
23 credit center (FF 02-03). The credit center compares the received  
24 transmission to authenticate and makes a determination to approve credit to

1 the customer (FF 02). That is, the credit center terminal is a comparing  
2 device. However, Partridge further describes that the merchant can directly  
3 contact the credit center in order to avoid any miscommunication by the  
4 customer (FF 02). Partridge explicitly describes that the customer transmits  
5 the ESN, MIN1, and MIN2 to the merchant and the merchant transmits these  
6 values to the base station and credit center (FF 03). Since the MIN2 value  
7 includes the amount to be charged, Partridge explicitly describes the  
8 merchant transmitting an amount of money.

9 The Appellant additionally contends that (2) Partridge fails to describe  
10 the step of transmitting the identification code from the merchant from both  
11 the merchant station and the mobile cell telephone, as required by limitation  
12 [6] of claim 1 (App. Br. 9-10). We disagree with the Appellant. As  
13 discussed *supra*, both the customer and the merchant have can transmit the  
14 MIN2 value (FF 02-03). As also discussed *supra*, the MIN2 value consists  
15 of the merchant code and the amount due (FF 03). Therefore, the Partridge  
16 explicitly describes from either the merchant or the cellular telephone of the  
17 customer.

18 The Appellant further contends that (3) Partridge fails to describe the  
19 steps of writing the data transmitted from the merchant station to an open  
20 transaction and then comparing a merchant station identification code  
21 transmitted from the mobile cell telephone with the open transaction to find  
22 the transaction, as required by limitations [4] and [7] of claim 1 (App. Br.  
23 10). The Appellant specifically argues that Partridge fails to describe the  
24 merchant transmitting the merchant code and therefore there would be no  
25 transmission of the merchant code from the merchant that is written to an  
26 open transaction (App. Br. 10). We disagree with the Appellant. As

1 discussed *supra*, Partridge describes an embodiment where the merchant  
2 transmits the ESN, MIN1, and MIN2 values to the base station and credit  
3 center (FF 03). Partridge further describes an embodiment where the  
4 customer contacts the base station and credit center with the ESN, MIN1,  
5 and the MIN2 and the merchant also contacts the credit center with the ESN,  
6 MIN1, and MIN2 values (FF 03). This allows the credit center to determine  
7 whether to extend the credit and send approvals to the customer and  
8 merchant (FF 02). As such, Partridge describes the merchant transmitting  
9 the merchant ID with an open transaction.

10 The Appellant also contends that (4) Partridge fails to describe the steps  
11 of transmitting the transaction data to the mobile cell telephone and  
12 outputting the data through the mobile cell telephone, as required by  
13 limitations [8] and [9] of claim 1 (App. Br. 10). We disagree with the  
14 Appellant. First, the steps recited in claim 1 are not required to be  
15 performed in any specific order. As such, there is nothing precluding  
16 limitations [8] and [9] to be performed as the first steps of the method or the  
17 last steps of the method. Although the Examiner responds that the  
18 *confirmation* does not include transaction data (Ans. 11-12), there is nothing  
19 requiring these steps to be performed at the end of the transaction. Partridge  
20 describes that a customer keys in the merchant ID and the amount to be  
21 charged (FF 02). Partridge then describes that this data is transmitted to the  
22 merchant or the credit center (FF 02-03). That is, Partridge describes  
23 transmitting the transaction information or data to the cellular phone and  
24 then transmitting the transaction data to the merchant or credit center. As  
25 such, the Appellant's argument is not found persuasive.

1       The Appellant additionally contends that (5) Partridge fails to describe  
2       the steps of requesting confirmation information through the mobile cell  
3       telephone and transmitting the confirmation data, as required by limitations  
4       [10] and [11] of claim 1 (App. Br. 11). We disagree with the Appellant.  
5       Partridge explicitly describes that the cellular phone transmits values to the  
6       credit center to request a confirmation (FF 02). Upon determination of  
7       whether to approve credit to the customer, the customer cellular phone  
8       receives a confirmation (FF 02). As such, Partridge describes requesting  
9       confirmation information and transmitting confirmation data.

10      The Appellant further contends that (6) Partridge fails to describe the  
11     step of transmitting additional supplementary transaction data from the  
12     merchant station, as required by limitation [13] of claim 1 (App. Br. 11).  
13      The Appellant specifically argues that Partridge fails to describe transmitting  
14     transaction data, as argued *supra*, and therefore fails to describe transmitting  
15     supplementary data (App. Br. 11). We disagree with the Appellant. As  
16     discussed *supra*, Partridge describes transmitting transaction data (FF 02).  
17      The Examiner further found that Partridge describes transmitting additional  
18     information, including TP, ESN, MIN1, MIN2, RAND, and AUTHR (Ans.  
19     14). The Appellant has not provided any rationale as to why this  
20     information is not supplemental information and how the claimed invention  
21     is distinguished from this description of Partridge. As such, the Appellant's  
22     argument is not found persuasive.

23      The Appellant additionally contends that (7) Partridge fails to describe  
24     the step of terminating the transaction if the confirmation information is not  
25     given within a predetermined time (App. Br. 11). We disagree with the  
26     Appellant. Partridge describes that a transaction is completed once a

1 confirmation is transmitted to the customer and merchant (FF 02). That is, if  
2 a confirmation is not transmitted then the transaction is not completed. This  
3 suggests that if a customer is not approved for credit, then no confirmation is  
4 transmitted and the transaction is terminated. Since the termination of a  
5 transaction is suggested, the Appellant's argument is not found to be  
6 persuasive.

7 The Appellant also contends that (8) independent claims 18-19 recite  
8 limitations similar to independent claim 1 and Partridge fails to describe  
9 these limitations for the same reasons discussed *supra*. We disagree with the  
10 Appellant. The Appellant's arguments were not found to be persuasive  
11 *supra* and are not found persuasive here for the same reasons.

12 The Examiner did not err in rejecting claims 1-4, 7, 9-10, 12-19, and 22-  
13 32 under 35 U.S.C. § 103(a) as unpatentable over Partridge and Jonstromer.

14

## 15 CONCLUSIONS OF LAW

16 The Examiner did not err in rejecting claims 1-4, 7, 9-10, 12-19, and 22-  
17 32 under 35 U.S.C. § 103(a) as unpatentable over Partridge and Jonstromer.

18

## 19 DECISION

20 To summarize, our decision is as follows:

- 21 • The rejection of claims 1-4, 7, 9-10, 12-19, and 22-32 under 35 U.S.C.  
22 § 103(a) as unpatentable over Partridge and Jonstromer is sustained.

23

Appeal 2009-012037  
Application 09/678,295

1 No time period for taking any subsequent action in connection with this  
2 appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

3

4 **AFFIRMED**

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6

7

8 mev

9

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